



# Legislative Research Council

# MINUTES

## State-Tribal Relations Committee

Senator Jim Bradford, Chair  
Senator Stan Adelstein, Vice Chair

First Meeting  
2013 Interim  
June 11, 2013

Room 413  
State Capitol  
Pierre, South Dakota

### Tuesday, June 11, 2013

The first meeting of the State-Tribal Relations Committee for 2013 was called to order by **Mr. Tom Magedanz, Principal Research Analyst, LRC**, at 9:00 a.m. (CDT) in Room 413 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Stan Adelstein, Jim Bradford, Russell Olson, Billie Sutton (via telephone), and Craig Tieszen; Representatives Troy Heinert, Kevin Killer, Elizabeth May, Lee Qualm, and Mike Verchio.

Staff members present included Tom Magedanz, Principal Research Analyst; and Cindy Tryon, Legislative Secretary.

(NOTE: For purpose of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents distributed at the meeting are attached to the original minutes on file in the Legislative Research Council (LRC). This meeting was web cast live. The archived web cast is available at the LRC web site at <http://legis.state.sd.us> under "Interim Information – Current Interim – Minutes and Agendas.")

**Representative Kevin Killer** opened the meeting with a prayer.

### **Election of Officers**

Mr. Magedanz opened the floor to nominations for committee chair.

**SENATOR OLSON MOVED, SECONDED BY REPRESENTATIVE VERCHIO, THAT SENATOR STAN ADELSTEIN BE NOMINATED AS CHAIR OF THE STATE TRIBAL RELATIONS COMMITTEE.**

**SENATOR SUTTON MOVED, SECONDED BY REPRESENTATIVE HEINERT, THAT SENATOR JIM BRADFORD BE NOMINATED AS CHAIR OF THE STATE TRIBAL RELATIONS COMMITTEE.**

**SENATOR TIESZEN MOVED, SECONDED BY REPRESENTATIVE HEINERT, THAT NOMINATIONS CEASE. Motion prevailed on a voice vote.**

Neither candidate received a majority of the votes of members present on the first ballot. Each of the candidates spoke briefly about why they would like to be considered for this office.

**SENATOR JIM BRADFORD WAS ELECTED COMMITTEE CHAIR AFTER THE COMMITTEE CAST A SECOND SECRET BALLOT VOTE.**

**Senator Jim Bradford** took the gavel and opened the floor to nominations for vice chair.

**REPRESENTATIVE VERCHIO MOVED, SECONDED BY REPRESENTATIVE KILLER, THAT REPRESENTATIVE TROY HEINERT BE NOMINATED AS VICE CHAIR OF THE STATE TRIBAL RELATIONS COMMITTEE.**

**SENATOR OLSON MOVED, SECONDED BY SENATOR TIESZEN, THAT SENATOR STAN ADELSTEIN BE NOMINATED AS VICE CHAIR OF THE STATE TRIBAL RELATIONS COMMITTEE.**

**SENATOR TIESZEN MOVED, SECONDED BY REPRESENTATIVE KILLER, THAT NOMINATIONS CEASE. Motion prevailed on a voice vote.**

Neither candidate received a majority of votes of members present on their first ballot. Each of the candidates spoke briefly about why they would like to be considered for this office.

**SENATOR STAN ADELSTEIN WAS ELECTED COMMITTEE VICE CHAIR AFTER THE COMMITTEE CAST A SECOND SECRET BALLOT VOTE.**

### **Department of Tribal Relations**

**Mr. JR LaPlante, Secretary, SD Department of Tribal Relations**, distributed materials for his report to the committee (**Document #1**). Secretary LaPlante introduced Janet Jessup, Policy Analyst for the Department of Tribal Relations. He said that Ms. Jessup has a strong background in mediation. He also introduced several tribal members present in the audience, including representatives from the Santee Sioux Tribe and from the Three Affiliated Tribes.

Secretary LaPlante gave a brief history of the department and talked about their mission statement. He explained that they work with all branches of state government including judicial, executive and legislative; but their main partners are the tribes.

Secretary LaPlante said that his department's role is as facilitator and catalyst. In Lakota they would be considered Iye'ska (interpreter). He said that they take every opportunity to teach the Governor, his staff, the legislature and other state agencies about the tribes and the fact that tribal members have dual citizenship – citizens of the tribe and the state.

Secretary LaPlante talked about the programs and projects his department has been working on throughout the past year. Some of those include: Criminal Justice Initiative, Economic Development in Indian Country, Green Book Initiative, Good Earth State Park, Intergovernmental Dispute Resolutions, Intergovernmental Meetings, SD Board of Geographic Names, State-Tribal Relations Study, State-Tribal Taxation, and Tribal ID. Department staff have made many visits to the reservations during the past year.

**Senator Russell Olson** said that the Santee Sioux Tribe had talked to him about some of the issues their military veterans have been facing. Senator Olson asked Secretary LaPlante if his office works with the South Dakota Veterans Affairs office. Secretary LaPlante said that he has been working very closely with the Department of Veterans Affairs. The department invited all the tribal veterans service officers to meet with the state veterans service officers to get input on the challenges they are facing today. The Tribal Relations department will now work with Veterans Affairs to devise a strategy for addressing those issues. Secretary LaPlante said that any Native American veteran having problems getting the services they have earned can call the Department of Tribal Relations and Secretary LaPlante will do what he can to assist them.

**Representative Mike Verchio** asked about the recent events in Pennington County regarding the foster care issues. Representative Verchio asked if there is any way the tribes can take over that program from the Department of Social Services.

Secretary LaPlante said that Secretary Malsam-Rysdon of the Department of Social Services should answer these types of questions but it is his understanding that the tribes can take over the program through a contract with the state. He added that those contracts would not apply to nonreservation counties and communities.

**Representative Troy Heinert** asked about the Keystone pipeline project. He said that a lot of people are quite passionate about this project and wondered whether the Tribal Relations office is holding any meetings to address this issue. Secretary LaPlante responded by saying that the state's position on KXL is well-known. He said that this is an educational process and that the goal is not to reach an agreement but rather to reach an understanding. He said it is important to engage in dialogue on this issue.

Senator Bradford said that some tribal members are upset about the state helping the tribe with setting up new businesses rather than helping individual tribal members set up new businesses. Secretary LaPlante explained that there are a lot of active efforts going on that encourage many different types of businesses. He added that in some instances the tribe has more borrowing power than in the past. He said that there is a need to have a mixture of private and public ownership and that his office tries to support both.

**Representative Elizabeth May** asked Secretary LaPlante how close he works with the actual tribal councils to encourage main street businesses. She added that the tribes own everything and are not willing to sell any land so that people can start their own businesses. Secretary LaPlante responded that he is as involved with the tribes as they want him to be. He does not go anywhere that he is not invited. He added that when the tribes do invite him, he takes as many people and resources as he can to assist with business development.

Representative Killer asked whether the Tribal Relations department has been able to facilitate meetings with banks. He pointed out that it is quite difficult to start a business without capital. Secretary LaPlante said that there has been much improvement in Indian country regarding business opportunities. He said that banks are opening up, investment opportunities are being created, and there are a lot of good things happening. He added that the frustrations are still there but he is trying to get the good to overcome the bad and that tribes are capable of very strong, good governance, but challenges remain.

### **Center for American Indian Research and Native Studies**

**Dr. Craig Howe, Director, Center for American Indian Research and Native Studies (CAIRNS)**, gave a PowerPoint presentation (**Document #2**). Dr. Howe founded the Center for American Indian Research and Native Studies (CAIRNS) in 2004. (A cairn is a stone used as a marker.) CAIRNS is located at Wingsprings in the Lacreek District of the Pine Ridge Indian Reservation.

CAIRNS is currently focusing on the Oceti Sakowin Assessment project. The Indian Education Act was enacted in 2007 but there has never been a way to assess what is being accomplished, and that is what they are doing through the assessment project.

Dr. Howe talked about how important it is to learn history. He said that the historical facts should not be presented incorrectly and that there is a lot of room for improvement in that area. He said that CAIRNS

is working with several different school districts and they are hoping to increase knowledge about the factual history of our state. He added that if we know the facts then we cannot argue.

Representative May asked whether CAIRNS works with the SD Department of Education. Dr. Howe said that they do not.

Senator Bradford asked whether any of the tribal schools are using the program designed at CAIRNS. Dr. Howe said that many schools are working hard on this and the response has been phenomenal. Senator Bradford thanked Dr. Howe for his presentation and told him that if there is anything the committee can do to help get this program into the schools, he should let them know.

### **Public Testimony**

**Mr. Thurman Cournoyer, Sr., Chairman, Yankton Sioux Tribe**, voiced some of the concerns of the Business and Claims Committee of the Ihanktonwan Nation.

Chairman Cournoyer said that he has signed a treaty to stop the Keystone pipeline from crossing tribal lands. The Yankton Sioux Tribe opposes Department of Social Services workers from entering tribal land to regulate the care of their children. He also said that the Yankton Sioux Tribe stands in solidarity with other tribes in the use of Lakota, Dakota, or Nakota on any signage in South Dakota. He also said that the state almost always opposes any transfer of land into trust and that policy needs to change.

He distributed a copy of his testimony along with materials supporting the Tribe's desire to stop the Keystone Pipeline, the International Treaty to Protect the Sacred from Tar Sands Project, the Department of State Consultation Resolution, and General Council Resolution #2013-13 (**Document #3**).

### **Department of Revenue**

**Mr. David Wiest, Deputy Secretary, SD Department of Revenue**, introduced **Ms. Bobbi Adams, Senior Revenue Agent**, and they gave a PowerPoint presentation regarding tax collection agreements between the State and the Tribes (**Document #4**). The presentation covered the history of tax collection agreements, current tax collection agreements, and how the collection agreements work. The state currently has some type of collection agreement with eight of the nine tribes in South Dakota. Lower Brule is the only tribe that chooses not to have the state collect any taxes for them.

Each tax agreement is unique and is renegotiated every five years. Training is vital to making this program successful. Tribal staff are invited to attend the state's sale and excise tax training classes, and if they cannot come here, Ms. Adams is willing to do the training at their offices.

In response to a question from Senator Bradford, Mr. Wiest explained that the state only collects the money for the tribes, it has nothing to do with how the tribes use that money. Senator Bradford thanked Mr. Wiest and Ms. Adams for the work they do on these agreements commenting that the agreements are a work of art.

### **Department of Corrections**

**Mr. Denny Kaemingk, Secretary, SD Department of Corrections**, talked to the committee about the recidivism rates for South Dakota (**Document #5**). For 2010, Native Americans had a 33% recidivism rate compared to 22% for whites and an overall rate of 25.9%. Overall, Native Americans accounted for 31.8% of those released but 40.5% of the recidivists.

He also discussed the Native American pilot program established in SB 70, The South Dakota Criminal Justice Initiative (**Document #6**). Secretary LaPlante joined Secretary Kaemingk at the table for the pilot program discussion.

Section 12 of SB 70 states that, "In cooperation with the Department of Tribal Relations, the Department of Corrections may develop tribal parole pilot programs to supervise parolees on tribal land. The Department of Corrections shall promulgate rules pursuant to chapter 1-26 as necessary for the implementation of the pilot program. The pilot program shall utilize a tribal-state liaison officer. The officer shall use supervision strategies that focus on reducing recidivism and employ evidence-based practices and swift, certain, and proportionate sanctions."

Secretary Kaemingk reported that they are in the process of setting dates to start visiting with each of the reservations to hear what the concerns and questions are regarding this program and see how willing the tribes are to pursue this program with the Department of Corrections. It has not yet been decided whether there will be one or two pilot programs. Secretary Kaemingk added that this is not something the state is asking the tribes to do, but rather it is something that needs to be a common goal for both the tribes and the state.

Secretary Kaemingk explained that currently a prisoner must have a job to be paroled. Because there are few jobs available in tribal communities, the prisoner is paroled to Rapid City or Sioux Falls. However, the prisoner just wants to go home. So, if the parolee goes home, he or she is violating parole and is sent back to prison. This pilot program is being developed to address those situations.

Representative Verchio asked about jurisdiction and whether or not the parole agent would have authority on the reservation. Secretary Kaemingk explained that an agreement would have to be made with the tribe giving the agent authority.

Secretary LaPlante added that this program will do nothing to the jurisdictional structure that exists now. This program will work through agreements much as the tax collection agreements work now. This agreement will be drafted by the tribe and the state working together. It will be the tribe sanctioning the parolees conduct, not the state. The tribe will have the option of surrendering that parolee back to the prison system if the parolee does not comply. The tribe will also have the right to deny allowing the parolee back onto the reservation.

**Senator Craig Tieszen** said that this is an essential part of the Criminal Justice Initiative (SB70). This is the first step in dealing with the high recidivism rates.

Secretary Kaemingk said that they know they will have to be flexible, but the state has a very strong commitment to the program. Secretary LaPlante added that they are looking forward to getting the program started and that this will be two sovereigns coming together to solve a problem.

### **Department of Education**

**Dr. Melody Schopp, Secretary, SD Department of Education**, gave an Indian Education Update to the committee (**Document #7**). She introduced **Mr. Keith Moore, Interim Director, Office of Indian Education** and he joined Secretary Schopp at the table for the presentation.

Secretary Schopp talked about the need to address the increasing gap between white students' graduation rates and Native American students' graduation rates. The gap in 2009 was 25.73%; in 2010 it was 23.46%; in 2011 it was 36.54%; and in 2012 it was 42.14%.

They are trying to address this issue in various ways, including, monitoring students' progress, after school programs, JAG (Jobs for America's Graduates), and Gear-Up and College Access grants.

Mr. Moore added that the statistics are very disheartening. He said that the work is plentiful, it needs to be thoughtful, and we need to be very respectful of each other. He added that young people want a great opportunity and we need to try to make that happen.

Secretary Schopp closed their presentation by saying that these numbers prove that what we have been doing is not working, but we cannot fix this in isolation.

### **Public Testimony**

**Ms. Kathy R. Augustine, Pierre**, testified about some of the problems with the justice system and how it treats the Native Americans, including disparities in sentencing and unfair treatment during incarceration.

**Ms. Marge Two Hawk, Pierre**, addressed the committee about some of the problems found within the prison system.

### **Committee Discussion**

The committee discussed future meetings and the possibility of traveling outside of Pierre for the next meeting. Representative Killer mentioned that the Chairman from the Sisseton-Wahpeton Tribe offered an invitation to the committee to meet on that reservation. Senator Adelstein suggested having a meeting in Rapid City. Senator Bradford said that Mr. Magedanz would work on a date and location for the next meeting and be in touch with the committee members.

Representative Heinert suggested that committee members reach out to tribal leaders in or near their districts and learn about what issues those leaders would like to see the committee address.

### **Adjourn**

**REPRESENTATIVE KILLER MOVED, SECONDED BY REPRESENTATIVE QUALM, TO ADJOURN. The motion prevailed unanimously on a voice vote.**

The committee adjourned at 3:45 p.m.



All Legislative Research Council committee minutes and agendas are available at the South Dakota Legislature's Homepage: <http://legis.state.sd.us>. Subscribe to receive electronic notification of meeting schedules and the availability of agendas and minutes at **MyLRC** (<http://legis.state.sd.us/mylrc/index.aspx>).